

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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GLYNICE SIMMONS, individually and as  
Administratrix of the ESTATE OF DAINELL  
ERIK SIMMONS,

14 CV 3884 (AMD) (ARL)

Plaintiffs,

**ORDER OF  
COMPROMISE**

-against-

COUNTY OF SUFFOLK; George Oliva; Karen Grenia;  
Susan Cataldo; Sal Yovino; James Poltorak; Kevin  
Wuestenhoff; Jeffrey Pitkewics; Steven Turner; Richard  
Ciaccio, James Samartino; Denise Fierro; Frank Leotta, and  
POLICE OFFICERS "JOHN DOE" 1-10,

Defendants.

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WHEREAS, Plaintiff Glynice Simmons, as Administrator of the Estate of Dainell Erik Simmons, commenced the above-captioned action in this Court; and

WHEREAS, the parties now desire to settle this action, and have agreed to settle all claims, inclusive of all costs, disbursements, and attorneys' fees, for the total amount of \$1,850,000; and

WHEREAS, pursuant to Local Rule 83.2(b), N.Y. E.P.T.L. § 5-4.6, and N.Y. G.M.L. § 6-n(10), Plaintiff has requested that this Court approve this settlement as fair and reasonable and also approve Plaintiff's counsel's attorneys' fees and disbursements; and

WHEREAS, the Court has reviewed the parties' submission, including the Declarations of Arlene Zwilling, Eric Hecker, and Glynice Simmons, and the attachments thereto;

**NOW, THEREFORE, IT IS HEREBY ORDERED** that:

1. The total settlement amount of One Million Eight Hundred Fifty Thousand Dollars (\$1,850,000.00) inclusive of all costs, disbursements, and attorney's fees (the "Settlement Amount") is hereby approved as just, fair, and reasonable.
2. The Court further finds that the Settlement Amount is in the best interests of Suffolk County, and is hereby approved pursuant to G.M.L. § 6-n(10).
3. No later than thirty (30) days from the date of this Order, Defendant County of Suffolk shall deliver to Plaintiff's counsel a check made payable to "Brett H. Klein, Esq., PLLC as Attorneys for Glynice Simmons, Administrator of the Estate of Dainell Erik Simmons" in the amount of the Settlement Amount.
4. The Settlement Amount shall be deposited into an interest-bearing escrow account controlled by Brett H. Klein, Esq., PLLC and shall be distributed as follows:
  - a. Plaintiff's counsel's attorneys' fees of \$608,112.89 are hereby approved as fair and reasonable, and such amount shall be distributed to Plaintiff's counsel promptly after the Settlement Amount is received.
  - b. Plaintiff's counsel's disbursements of \$25,661.33 are hereby approved as fair and reasonable, and Plaintiff's counsel shall be reimbursed for such amount out of the Settlement Amount promptly after the Settlement Amount is received.
  - c. The remainder of the Settlement Amount following the payment of Plaintiff's counsel's attorney's fees and disbursements (the "Net Settlement Amount") shall remain in an interest-bearing escrow account controlled by Brett H. Klein, Esq., PLLC until the Surrogate's Court issues an order directing the distribution, in part or in whole, of the Net Settlement Amount.

IT IS SO ORDERED.

Dated:

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HON. ANN M. DONNELLY  
United States District Judge